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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,848	12/08/2000	William J. Byrne	M-9904 US	2028

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EXAMINER

SING, SIMON P

ART UNIT PAPER NUMBER

2645

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/733,848

Applicant(s)

BYRNE ET AL.

Examiner

Simon Sing

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/03/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

All reference numerals in figure 2 do not match with reference numeral in the specification (page 4, lines 15-23).

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "sequentially select" in line 6 is confusing, because it is unclear to which sequence, an original sequence or a shuffled sequence, is selected.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Dodrill et al.  
US 6,490,564.

Dodrill discloses an arrangement for defining and processing voice enabled web applications using extensible markup language (XML) documents. Dodrill teaches creating a pool of audio prompts (Figure 6, PromptList 204; Figure 8A, PromptList 126), and subdividing the pool into segments of audio prompts, such a PromptList 204 and PromptList 126 (column 12, lines 44-67; column 13, lines 1-3). The audio prompts in each segment are selected from a list of audio prompts [audio files in database 96 of figure 7] by a code, and the code is sent to a voice XML interpreter [Figure 7, XML parser 220] (column 13, lines 43-53). Dodrill teaches using audio prompts, or sound wave files, such as: "Good Morning", "Enter Your telephone Number followed by the Pound Key" (Figure 8A; column 12 line 66 to column 13, line 3), "Enter Your Password followed by the Pound Key" (reference numeral 130 of figure 8; (column 14, lines 37-

40), and other audio prompts as shown in figures 8B-8E. It is inherent that the voice prompt includes "Good Afternoon" and "Good Evening" in addition to and grouped with "Good Morning", and audio prompts in a greeting, such as PromptList 204, is not stored consecutively in a memory and therefore, is in a shuffled sequence.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dodrill et al. US 6,490,564 in view of Surace et al. US 6,144,938.

Dodrill discloses an arrangement for defining and processing voice enabled web applications using extensible markup language (XML) documents. Dodrill teaches creating a pool of audio prompts (Figure 6, PromptList 204; Figure 8A, PromptList 126), and subdividing the pool into segments of audio prompts, such a greeting or PromptList 204 (column 12, lines 50-67; column 13, lines 1-3). The audio prompts in each segment are selected from a list of audio prompts [audio files in database 96 of figure 7] by a code, and the code is sent to a voice XML interpreter [Figure 7, XML parser 220] (column 13, lines 43-53). Dodrill fails to teach randomly selecting a greeting from a list.

However, Surace discloses a voice user interface with personality. Surace teaches that a greeting prompt with varied personality can be selected randomly from a database (column 5, lines 40-44; column 15, lines 5-8, 19-22).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Dodrill's reference with the teaching of Surace, so that a greeting [prompts] would have been selected randomly, because such modification would have played to a user a more interesting, different greeting instead of a monologue one.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a) Ladd et al. US 6,385,583, discloses a markup language for interactive services.
- b) Risner et al. US 5,943,401, discloses an electronic forms voice messaging apparatus.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Sing whose telephone number is (703) 305-3221. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached at (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.



S.S.

02/11/2003

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2000

